



SHERWOOD CITY COUNCIL MEETING MINUTES
22560 SW Pine St., Sherwood, Or
January 5, 2016

WORK SESSION

1. **CALL TO ORDER:** Mayor Krisanna Clark called the meeting to order at 6:03 pm.
2. **COUNCIL PRESENT:** Mayor Clark, Council President Robinson, Councilors Linda Henderson, Jennifer Harris, and Renee Brouse. Councilor King arrived at 6:13 pm.
3. **STAFF PRESENT:** City Manager Joe Gall, City Attorney Josh Soper, Public Works Director Craig Sheldon, Police Captain Ty Hanlon, Administrative Assistant Colleen Resch and City Recorder Sylvia Murphy.

4. TOPICS:

A. Willamette Governance Group Update

Public Works Director Craig Sheldon presented information to the City Council, (see record, Exhibit A). Craig provided an overview of the Willamette Governance Group (WGG) and the Willamette River Water Coalition (WRWC), informed of the partners, scope and objectives. Craig explained the approach of the WGG, the work plan and proposed timelines. Craig explained Preliminary Concepts and Tentative Agreements.

Craig provided an overview of the Preliminary Concept organizational chart and explained some of the topics currently under discussion regarding the WRWC, water rights, ownership and future requirements for existing WRWC partners.

Craig explained the next steps as continued meetings with the WGG, staff briefings to Council to review tentative agreements with an anticipated agreement by late 2016, followed by adoption of agreement and completion of the Water Treatment Master Plan. Council questions and discussion followed.

5. ADJOURN:

Mayor Clark adjourned the work session at 6:22 pm and convened to an Executive Session.

EXECUTIVE SESSION

1. **CALL TO ORDER:** Mayor Clark called the meeting to order at 6:25 pm.

2. COUNCIL PRESENT: Mayor Krisanna Clark, Council President Sally Robinson, Councilors Dan King Linda Henderson, Jennifer Kuiper, Jennifer Harris, and Renee Brouse.

3. STAFF AND LEGAL COUNSEL PRESENT: City Attorney Josh Soper. City Recorder Sylvia Murphy joined the meeting at approximately 6:35 pm.

4. TOPICS:

A. ORS 192.660(2)(i), Performance Evaluation of Public Officials. City Recorder annual performance evaluation.

5. ADJOURN

Mayor Clark adjourned the Executive Session at 6:55 pm and convened to a regular session.

REGULAR SESSION

1. CALL TO ORDER: Mayor Clark called the meeting to order at 7:02 pm.

2. COUNCIL PRESENT: Mayor Clark, Council President Robinson, Councilors Linda Henderson, Jennifer Kuiper, Jennifer Harris, Renee Brouse, and Dan King.

3. STAFF PRESENT: City Manager Joe Gall, City Attorney Josh Soper, Police Captain Ty Hanlon, Community Development Director Julia Hajduk, Public Works Director Craig Sheldon, Planning Manager Brad Kilby, Associate Planner Connie Randall, Administrative Assistant Colleen Resch, and City Recorder Sylvia Murphy.

Mayor Clark addressed the next agenda item and asked for a motion.

4. APPROVAL OF AGENDA:

MOTION: FROM COUNCIL PRESIDENT ROBINSON TO APPROVE THE AGENDA, SECONDED BY COUNCILOR KUIPER. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

5. CONSENT AGENDA:

A. Approval of December 1, 2015 City Council Meeting Minutes

B. Approval of December 15, 2015 City Council Meeting Minutes

MOTION: FROM COUNCILOR HENDERSON TO APPROVE THE CONSENT AGENDA, SECONDED BY COUNCILOR HARRIS. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

6. PRESENTATIONS:

A. Recognition of Eagle Scout Award Recipients

Mayor Clark congratulated Ryan Chidlaw for earning his Eagle Scout Award. Mayor Clark asked Ryan to explain his Eagle Scout project. Ryan stated he put in three benches and cleaned up Gibbs Cemetery, which is located between Newberg and Sherwood. He stated he had the help of approximately ten other scouts and planned the project over the summer. Mayor Clark stated obtaining an Eagle Award is not an easy task and takes a lifetime of commitment. Mayor Clark congratulated Ryan, and presented him with a Certificate of Achievement.

Mayor Clark recognized and congratulated Ryan Peyton and Brenden Tuohy for obtaining the rank of Eagle Scout. Neither scout was present and Mayor Clark indicated the certificates would be mailed.

Mayor Clark addressed the next item on the agenda.

7. NEW BUSINESS

A. Selection of 2016 City Council President

Mayor Clark thanked outgoing Council President Robinson for her service. She commented on her efforts as the liaison to the Planning Commission and for her work as the Liaison to the Sherwood West Project. Mayor Clark spoke the number of meetings Councilor Robinson attended over the year, including running the City Council meetings in the Mayors absence.

Council President Robison thanked Council for the opportunity to serve as Council President and stated she has learned in the last year how important the work of the Mayor is in the preparation of a meeting. She said it has been a lot of work and enjoyable and her workload at her full time job is requiring her to step down as Council President. She said she believes it would be meaningful to have another Council member have the opportunity to run a Council meeting. Council President Robinson recommended Councilor Harris to serve as Council President. Mayor Clark stated she seconded the recommendation and commented on Councilor Harris's attributes. Councilor Harris accepted the nomination.

MOTION: FROM COUNCIL PRESIDENT ROBINSON TO NOMINATED COUNCILOR HARRIS AS COUNCIL PRESIDENT, SECONDED BY MAYOR CLARK. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

8. CITIZEN COMMENTS:

Laurie Zwingli with the Sherwood Police Foundation came forward and presented the Sherwood Police Department with two Active Shooter Medical Bags. She said in the last few years the country has suffered several active shooter incidents and in response SKEDCO, Inc., a Tualatin company, has developed and now offers Active Shooter Medical Bags. She said through donations the Police Foundation is able to provide the Sherwood Police Department with these bags to assist the officers. She said the bags are valued at \$720 each and she described the contents of the bags. Captain Ty Hanlon accepted the bags and the Council members thanked Ms. Zwingli.

Pat Olds approached the Council and commented regarding his anger and frustration over the death of his brother at the intersection between Walmart and Target. He referred to the challenges of City government but questioned the priorities of the City. He provided the example of removing the monuments in Old Town and asked if that was more important than the possibility of losing more lives at the intersection between Walmart and Target. He said that intersection is probably the busiest in the City and asked why there is not some sort of marking showing a crosswalk and perhaps lighting. He asked what the status was with improving the intersection and noted that it has been a year since his brother passed away.

Mayor Clark informed Mr. Olds that this is not a question and answer time.

City Manager Gall responded that there are plans to improve that intersection.

Community Development Director Julia Hajduk stated a timeframe has not been established but it could be done in a short period of time. She noted there needs to be a study to determine if a safe crossing could be put in there and stated there are crossings at the roundabout and at the main intersection and the City needs to analyze whether it would be more problematic to encourage people to cross there. She said there are plans to move forward but they need to identify funding.

Mr. Gall said he is estimating it to be a \$100,000 improvement. He offered to discuss the issue in more detail with Mr. Olds.

Mayor Clark asked if there were requirements on pedestrian crossings when the area was developed.

Ms. Hajduk said they do look at pedestrian connections and said there are pedestrian crossings and that intersection is a driveway and they did not envision or wanted pedestrians to cross there. She said there are crosswalks at the roundabout and at Tualatin Sherwood Road. She noted that the reality is people are crossing there and it is a problem and the City realizes it needs to be addressed.

Mayor Clark asked if the City is responsible for paying for the improvement of should the developer.

Ms. Hajduk said if it was anticipated at the time they could potentially require the developer to pay for it but in this case it was not anticipated.

Scott Nelson, Sherwood resident and Sherwood YMCA Board member approached the Council to discuss the YMCA agreement. He said over the last 17 years the agreement between the City and the YMCA has produced a number of financial benefits. He said at the opening the YMCA raised the initial \$125,000 for the pool slide and years ago the City and the YMCA agreed to add 10,000 square feet to the facility to enclose the sport court and add the Teen Center. He said the YMCA raised \$250,000 and the City borrowed the remaining \$1.5 million, which became the responsibility of the YMCA, and this year it will be paid off. He said over the years City Managers and the YMCA agreed to forego dividing the annual operating surplus, if any, to improve the City owned asset and strengthen the YMCA operations. He said this represents a gift to the City exceeding \$225,000. He said in addition the YMCA has voluntarily charged less for management service allowed in the contract and this gift of more than \$400,000 has been invested in the operations of the YMCA. He said as a result of successful operation of the YMCA, the YMCA has invested more than \$1 million in facility improvements. He said over the years the YMCA has leased equipment and as each lease expires new equipment replaces the old. He noted that exit

surveys indicate that members would like a quicker turnaround of equipment. He stated that the current operating agreement between the City and the YMCA expires October 31, 2018 and any equipment lease the YMCA would enter into at this point would extend beyond that period. He said the YMCA would like to make additional investments to the building that exceeds the reserve fund balance. He said the YMCA has identified other discretionary improvements to the facility and provided examples. He noted that without the assurance of an operating agreement it becomes difficult to justify spending that money. He noted the YMCA plans to continue to operate in good faith and serve the community but urged the Council to direct the City Manager to reinstate the contract negotiations for a reasonable operating agreement.

Gail Cutsforth, Sherwood resident and Sherwood YMCA Regional Board of Directors member came forward to discuss the YMCA contract negotiations. She said on June 18, 2013, then Councilor Clark brought up the discussion of the City's YMCA operating agreement and directed staff to send a letter requesting documents from the YMCA and hire a firm to review the agreement. She stated in the fall of 2013 TWK was hired to review the agreement. She noted Rob Moody with TKW conducted the evaluation and reviewed the relevant terms and the compliance to those terms. She said the review focused on the stated financial arrangement between the two parties and payments to the City under the agreement. She stated Mr. Moody suggested revisions to the agreement specifically regarding financial terms and conditions. She said the City spent \$6500 to conduct the review. She said the YMCA staff and City staff met on various dates in 2014 to discuss the agreement and the last meeting was October 9, 2014. She stated that since then the YMCA has repeatedly asked to continue negotiations and clean up the agreement. She noted that on December 15, 2014 an updated version of a preliminary agreement was sent to City Manager Joe Gall for Council review which to the YMCA's knowledge has not happened. She said the YMCA requested a special meeting to discuss the agreement and was denied. She said the YMCA received a letter on July 24, 2015 from the City referencing section 33 of the agreement and the YMCA responded and disagreed with the City's interpretation and asked for an extension for the users who were being asked to vacate the YMCA. She said the extension was granted and a meeting to discuss section 33 was scheduled for November 6, 2015. She said the YMCA and the City are working through this issue. She stated YMCA President and CEO Bob Hall sent a letter to the Council on October 23, 2015 reiterating his desire to continue negotiating a new contract and Mayor Clark replied on October 26, 2015 that all communications regarding contract negotiations are to be handled directly by the City of Sherwood staff. She said in a monthly meeting with Mr. Gall on November 24, 2015, Mr. Hall asked about continued negotiations and Mr. Gall responded that he is waiting for direction from the Council. She asked the Council to direct City staff to resume negotiations with the YMCA.

Tim Baugus, Sherwood resident approached the Council and stated that he works for Skanska. He said he is concerned for the safety and livability of Sherwood and the lack of police action addressing protesters in City neighborhoods. He stated there is an ongoing issue with occurrences on May 2, May 23, May 28, October 31, November 15, November 21 and December 6 during the day and as late as 11 pm. He noted on these dates his home and the surrounding neighborhood was victimized by a group that used graffiti, bullhorns, personal threats and screaming with the intent of waking the neighborhood and scaring young children and terrorizing families. He stated he has had several discussions with the police and Mr. Gall and they have been assured that action would be taken and the laws of the City would be enforced but when the protesters arrive nothing is done. He said a taskforce has been created that consists of the FBI, Beaverton Police, Washington County and Sherwood Police. He stated there is a specific task that Sherwood Police were asked to complete including filing reports for every incident and trying to identify the people. He said these are not being done consistently or not being done at all. He

said he has provided pictures and the Sherwood Police have not identified one person. He said this inaction has caused the protesters to become more brazen as evidenced by the December 6 event when they arrived at 11 pm using bullhorns and shouting. He said this event clearly broke the City laws yet not one citation was issued and not one person was positively identified. He stated the protesters are using terrorist's tactics to intimidate his family, neighbors and the police. He referred to meetings with Mr. Gall and City Attorney Josh Soper and said it is clear that Mr. Soper is directing the Sherwood Police Department to ignore the laws that have been passed to protect the citizens. He said Mr. Soper is focusing on the constitutionality of the ordinance instead of enforcing the ordinances. He stated the inaction has gone far enough and he is concerned for the safety of his family and neighbors. He commented on the groups social media where they are celebrating violent actions including fire-bombing of different facilities. He provided a petition with 55 names and asked the Council to direct Mr. Soper and Mr. Gall to enforce the current laws and he asked to pass a residential picketing law.

Shelby Baugus, Sherwood resident approached the Council and played an audio recording of the protesters that was taken from inside their house. She commented on how scary the shouting is especially for young children and late at night.

Lori Baugus, Sherwood resident came forward and commented on the need to feel safe in your home. She said her neighbors have had their homes invaded by the noise of these picketers and the protesters hold them as captive victims with no place to escape. She said this is an invasion into our homes and privacy and despite promises from the police and City Manager not one citation has been issued. She stated Mr. Soper has informed them that he has directed the police not to issue any noise violation citations for any reason because he questions the constitutionality of the law. She argued that the job of the police is not to question the law but to uphold it as it is written. She said the direction from the City to the police is putting patrol officers in the position of being judge and jury and has caused confusion among officers and resentment among citizens. She said the citizens deserve to have the laws enforced. She referred to a meeting with Mr. Soper on December 21 where he indicated that the protesters are simply trying to communicate a message and have the legal right to scream, yell and intimidate as a form of communication. She said the picketing at her home is intended to do more than convey a message of opposition to an animal lab. She stated the picketing is not friendly and is an assault on her family and neighborhood and interferes with their daily life and privacy. She said they have presented the City Manager and City Attorney with a packet of information regarding residential picketing ordinances and said this type of law protects all citizens against residential protesting and would empower the police. She noted picketing for the purpose of imposing psychological harm is not constitutionally protected and the US Supreme Court agrees that residential picketing ordinances are valuable in protecting the privacy of the home. She encouraged the Council to pass a residential picketing law and allow and encourage the police to do their jobs and issue noise citations for the noise violations.

Ellie Perka, approached the Council and stated she is a lawyer from Seattle representing the Baugus family with regards to the protester. She commented regarding the severity of the protester's conduct with threatening phrases and aggressive behavior. She stated Mr. Baugus is a contractor and is not testing animals. She said this facility that is being protested is a building at the University of Washington and the protest group is targeting executives. She referred to the noise ordinance 9.52.030 which states that it is unlawful for any person to knowingly create a system creating permit or continue to permit the continuance of any noise disturbance. She commented on the concerns about the ordinance and noted that the ordinance is very clear and states that a noise disturbance is any sound which annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others. She referred to the audio

recording that was played and said it violates the noise ordinance. She commented on the bullhorn prohibition which is cited at 9.52.040 which provides specific times where bullhorns are prohibited. She noted these protesters are using bullhorns and she encouraged the City to issue citations under both of these ordinances. She commented on the constitutional issues and said they are complicated and in her opinion are constitutional.

Mark Cottle, Sherwood resident came forward and stated the City Attorney has no authority to direct Sherwood Police Officers as to the enforceability of any ordinance. He said the City Attorney's job is to give the Council the discretion and advise as to what he believes is constitutional and the reason for that is the police take an oath of office to uphold the laws of the community. He said the current ordinance cites an Oregon Supreme Court case as to what is a viable noise ordinance when harassment in the second degree which prohibits any noise that threatens, intimidates or annoys based not on content but on time, place and manner, meaning everything those people said was protected. He said it is not protected if you bring it into a neighborhood at 11 pm and begin screaming. He stated that he lives about 100 yards behind the Baugus family and he can hear the protesters inside his house and noted that is a gross invasion of his constitutional right to privacy and violation of his right to peaceful enjoyment of his property. He encouraged the Council to have the police uphold their oath of office. He stated that they cannot be arbitrarily capricious in your enforcement of the ordinance and asked for peace in their neighborhood until the ordinance is fixed. He noted that the police are under an oath of office and the violation of which is punishable by loss of their license to be police officers and they should not be in that position.

Jeff Roberts, Sherwood resident approached the Council and said he lives across the street from the Baugus residence. He expressed his frustration and read emails he received from the Chief of Police with copies to Officer Hanlon, Mr. Gall, Mr. Soper, Assistant City Manager Tom Pessemier and Officer Daniel. He said they called the police on November 15 at 9:50 pm when they heard the protesters screaming and no one came and he said the next time the police came and did nothing. He stated Chief Groth responded that they do have the right to protest but not to disturb the peace and said they will work to not allow it in the future. He said this communication was in November and the protests started in May. He referred to emails exchanged on November 24 where Chief Groth stated the officers have been directed to identify and cite anyone using bullhorns and said officers have been given clear direction. He said a week later the protesters came at 11 pm and they woke up his children and scared them. He asked rhetorical questions regarding repeatedly breaking the law and would they just be given a warning. He said after 6 incidents with the protesters they are past just being warned. He stated the Police Chief, the City Manager, the City Attorney are all aware of this issue. He said he contacted Mayor Clark last month and she responded that she met with the City Manager and requested an action and he asked what has happened in a month. He noted he emailed three Council members and thanked Councilor Brouse for her response and stated she was the only one to respond. He encouraged leadership and said he asked Chief Groth what he can personally do within the law to protect his family.

Councilor King asked to respond to Mr. Roberts. Mayor Clark said Council can respond after the citizen comment period and after staff responds.

Joan Roberts, Sherwood resident came forward and said she lives across the street from the Baugus family and has been dealing with protesters since May. She commented on safety in Sherwood and said she is upset by these protesters. She commented on the lack of police response and said she confronted the protesters at 11 pm and told them to go home and said they were disrupting the peace. She said the

protesters looked at her with contempt. She stated that she has four daughters and the neighborhood has several small children and said she doesn't feel that she can be protected by the police. She encouraged the Council, the City Attorney and the Police Department to handle this issue.

Claude Campbell, Sherwood resident approached the Council and said he lives next door to the Baugus residence. He noted that Mr. Baugus is the subject of these demonstrations and his company more specifically. He said several months ago an animal rights organization began holding demonstrations in front of the Baugus home and used bullhorns and offensive and vulgar language and left behind written foul language on the sidewalk. He said he and his wife experienced physical and psychological results from the demonstrations that have occurred as late as 11 pm. He stated they disturb the peace and quiet and their civil rights. He commented regarding calling 911 to report the protesters and two Sherwood Police officers arrived and did nothing to uphold the City ordinance prohibiting the noise or disorderly conduct. He said the Sherwood Police are now in violation of their individual oath of office where they promised to uphold the laws of Sherwood as well as the State of Oregon. He said on each occasion when the demonstrators appeared and began their vile language broadcast through amplification equipment the police failed to act and did not ask for protester's identification and failed to issue citations. He stated he called Chief Groth and the Chief discussed how he was going to instruct the Police Department to act and said he would fix it. He referred to trust and said he is appalled by the lack of concern for the citizens of Sherwood and their civil rights. He said the Council also took an oath of office to uphold the laws and he expects they are also in violation of their oath and asked them to consider the leadership of the Police Department and make changes.

Lance Dowdle, Sherwood resident came forward and said he also resides on Sunset Boulevard and is affected by the protesters. He said the protesters plan to disrupt the public and the police do not cite them or discourage them from returning. He stated he heard on December 6 through a video one officer saying the protesters left when asked and there was nothing more that he was going to do even though the laws of Sherwood were broken. He suggested the police use the same restraint when dealing with other infractions around the City and provided examples of traffic infractions. He said there is fear and mistrust between the police and the citizens. He noted the examples he cited were driving mistakes or oversights and not one of those examples were planned and prepared for. He stated these protesters plan, prepare, campaign, fundraise, and seek advice of attorneys with the purpose to terrorize with the intent to harm and have only been given a warning. He asked for consistency in enforcing the law and said City employees work for the citizens and commented on distrust for the Sherwood Police Department and said the problem needs to be fixed.

Andy Jensen, Sherwood resident approached the Council and added his support to those that have expressed concerns for the protests and the concern of the existing ordinances not being enforced. He stated he endorses adoption of an ordinance to further limit residential picketing to help preserve and protect the livability of our City.

Janet Bechtold, Sherwood resident came forward and said she lives down the street and around from the Baugus residence. She said she has lived here since 1978 and has never heard anything like this. She said she can hear the protesters and commented on the number of children that are affected in the neighborhood.

Eugene Stewart, Sherwood property owner commented on the children in the audience that left covering their ears when the audio of the protesters was played. He said it appears that children are being

traumatized and it needs to stop. He requested that the Council put the Senior Center on a future agenda to discuss the direction of the Center. He suggested setting up a Board for the Senior Center and he encourage the Council to look at how Wilsonville has handled their Senior Center.

Mayor Clark acknowledged that this issue is volatile and explained that the Council is not in charge of the Police Department and Sherwood has a City Manager form of government. She asked City Manager Joseph Gall to respond to the many critiques.

Mr. Gall stated that they have been involved with this issue for a number of months and there was a spike in activity in the spring and it slowed down in the summer and resumed in the fall. He said it is a national campaign that is targeting Skanska executives throughout the country. He noted that an executive in Beaverton is dealing with protesters once a week. He said he has been working on the issue for the past 6 weeks and will have the police and Mr. Soper discuss the challenges they face. He stated he has a particular request for a residential picketing ordinance and will seek direction from the Council. He noted that it is a difficult issue and he understands the frustration and said there are ways to address it and do a better job. He said Sherwood is still a safe community and agreed that this needs to be fixed. He asked Captain Hanlon to discuss how the Police Department has been handling this issue and why citations have not been issued.

Captain Hanlon said he empathizes with the citizens and appreciates them coming forward and expressing their concerns. He said it is disheartening to hear that they do not trust the Police Department. He stated the Police Department has been working on this problem since May and they have communicated with officers on how to respond. He noted that the Police Department responded to the situation on April 5 at 6:50 pm, May 2 at 8:00 pm, May 23 at 4:25 pm, and June 14 at 7:38 pm. He noted there was a lull in activity during the summer. He referred to the group's social media presence and said for a while the group provided the information on when and where the protests would occur which helped but now they have changed their tactic and they continue to change their tactics. He stated that this is the protesters full time jobs. He stated the protesters returned and the Police Department responded on October 31, November 13 at 9:55 pm, November 15 at 8:50 pm, November 21 at 7:15 pm and December 6 at 11:00 pm. He said they have not been back since December 6 and he noted there is video of one of the officers that responding on December 6. He commented on response times and he noted that the Police Department is 4 square miles from the Baugus residence and typically there are only two officers on duty. He said when the police received a call on November 15 they were dispatched at 8:54 pm and arrived at 8:57 pm and on December 6 dispatched at 11:04 pm and arrived at 11:07 pm. He said the department has instructed officers that because this is a protest situation and protesters can be volatile and unpredictable the protocol is to have 3 officers present. He noted that Sherwood only has two officers on duty so they will request backup from a neighboring community. He stated that Beaverton has been dealing with this issue and determined that the protesters have been resistive and volatile. He said he is in close contact with the Beaverton Police Department regarding this situation. He commented on the efforts being made by the Sherwood Police Department regarding this issue and stated that according to the mobile computers in the police cars which documents where they have been the Sherwood Police have been to the Baugus neighborhood 144 times. He said those are extra patrols and the efforts they are making to discourage the protesters. He noted there tactics are to hit and run and show up and get on the bullhorns for 10 or 15 minutes and leave. He stated that Sherwood Police can get to the scene quickly and said they do want to issue citations for the bullhorn use and have been in discussion on how to make that work. He said he understands the frustration and has had conversations with the Baugus family and they are hoping they can address this collectively.

Mr. Gall said he watched a video from the December 6 demonstration and said the officer approached the group and was waiting for other officers and told the group that they were violating the noise ordinance and told them that they would be issued citations if they did not stop and the two leaders of the group went back to the group and had a short conversation and they continued chanting and went to their cars and no citations were issued. He asked Captain Hanlon why citations weren't issued in that specific instance.

Captain Hanlon said on December 6 they have a recording of an officer that arrived on the scene and was the sole officer and was waiting for an additional officer to arrive. He said the officer made contact with people involved who were believed to have spearheaded it with a couple of others. He stated that once contact was made the leaders made contact with the rest of the group and dispersed. He said that is his recollection from the video and what the officers recounted that it was within a few minutes and the protesters were gone. He referred to the directive to try to identify the bullhorn users and in this particularly case a bullhorn was seen but not being used at the time, and because they dispersed the officer did not identify anybody or issue a citation. He commented on the yelling and the chanting and said it is ambiguous as to how you can enforce that. He asked the City Attorney to address that piece.

Mr. Soper said he has advised the Council on the difficulty they have had with the ordinance provision and the exposure perhaps with the City with enforcing the current ordinance provisions. He said he is reluctant to discuss the details in a public forum for obvious reasons but is willing to discuss the concern individually or in small groups outside of this setting. He noted that Sherwood is not the only community facing this challenge in terms of dealing with the protester groups and with the challenges of trying to use law enforcement to control those groups. He said Beaverton is having the same difficulty in terms of code enforcement. He stated there are a couple things the City can do. He said there are a couple of issues with the current noise ordinance and said staff will be bringing to Council a new and improved noise ordinance hopefully at the January 19 City Council meeting. He said he is also coordinating with the Beaverton City Attorney and the District Attorney's office to discuss possible criminal prosecutions. He stated the DA's office has been reluctant to do that with the individuals that were arrested in Beaverton but that is something they are coordinating. He said they are also coordinating with Beaverton and looking internally at a residential picketing ordinance.

Mayor Clark thanked staff for the update and said she also moved to Sherwood for the safe and livable community. She said the Council wants to be solution oriented and said she would like to direct staff to come back with a residential picketing ordinance and continue their efforts with the DA's office with the possibility of prosecution for repeat offenders and fixing the noise ordinance and bring it back to Council. She asked if Council agrees with her direction. Council agreed.

Mr. Gall said that working closely with the neighbors and the residents is important. He stated the livability of this community is being challenged mainly by outsiders. He said this is not normal for Sherwood. He stated there have been citations issued in Beaverton that have been thrown out and he noted that a citation will not solve this problem and they will come back. He said in some regard if we start issuing citations there may be more protesters and it could get worse. He requested that as we continue with this issue we need good communication with the residents. He acknowledged the citizens frustration.

**Recorders note: comments were received from the audience.*

Mayor Clark said we need to find a solution and fix the problem together. She said she understands the frustration and said they will move forward.

Councilor King apologized for not responding to Mr. Roberts email and said because of the sensitivity of the situation he did not have a full picture to be able to discuss the issue. He said he is now aware of everything that has occurred and the timeline and said we will address the problem. He noted that the City has not faced this issue before and he wished it could be addressed tonight but it will take a little time and he asked for patience to find a solution and regain trust. He apologized for what the residents have endured and said it is frustrating.

Councilor Henderson said ordinances take time to adopt and there is a reason for that and she asked Captain Hanlon and Mr. Soper what will happen the next time these protesters come. She stated that there are only two officers on duty during the evening and said it takes 2 ½ hours to process a DUI. She said there may not be backups readily available and she predicts that more protesters will be coming once this story is in the media. She asked what kind of response can the Police Department give to these citizens in the interim as the Council adopts a residential picketing ordinance and amends the noise ordinance. She said she is concerned with increased protest activity resulting in more frustration from the residents.

Mayor Clark asked if the police have the ability to make arrest.

Captain Hanlon clarified the difference between a violation and a crime. He said the City ordinance is a violation and no different than a speeding ticket. He said if they are trespassing or there is disorderly conduct they can be arrested for a misdemeanor and taken to jail. He stated he would rather not discuss tactics in a public forum and said they are trying to be creative and the situation is always evolving and the group is a grassroots organization that is getting a lot of support and trying to stay ahead of them is problematic. He said they have been focusing on trying to identify the ones using the bullhorns and cite them. He stated the police want to enforce what they can and they want to do it in a safe manner. He reiterated that we don't know these people and rogue people get involved in protests and there will be more wanting to join. He said in Beaverton the protesters are wearing masks to conceal their identity and they have not done that in Sherwood yet.

Recorder note: comments from the audience stated the protesters have worn masks in Sherwood.

Captain Hanlon apologized and said he has not seen those wearing masks. He assured the citizens that they are trying to address the issue and have put up cameras every week to try to capture images of the protesters.

Council President Harris referred to comments from Mr. Roberts that on December 6 a call was made at 9:50 pm and the police were dispatched at 11:04 pm and arrived at 11:07 pm and asked if that is normal to have a lag between the call and when the police are dispatched.

Captain Hanlon replied that a call was received from Mr. Campbell at 11:03:07 pm and dispatch received the information at 11:03:52 pm and dispatched at 11:04:18 pm and arrived at 11:07:44 pm.

Council President Harris suggested the time discrepancy may be a clock issue. She referred to the video that she saw where the officer got every license plate number and asked if those plates were run.

Captain Hanlon said the police know who they are and some needed clarification so they worked with the City of Beaverton.

Council President Harris clarified the process and asked if after the police ran the license plates did they locate the protesters.

Captain Hanlon replied that over half of the people are from Washington and northeast Portland. He said the police are trying to be in the neighborhood as a deterrent and they are documented 144 times they have had extra patrols in the area.

Council President Harris asked about disorderly conduct regarding this situation.

Mr. Soper noted that disorderly conduct is what the protesters in Beaverton were arrested for and the DA dismissed those charges and he said that is specifically what they are working with the DA on to see if we can prosecute for disorderly conduct.

Captain Hanlon said they have looked at disorderly conduct and are open to creative options.

Councilor Kuiper asked if a citation can be issued based on a video or does the officer have to witness the act.

Captain Hanlon said it depends and the violation and if they can identify. He said that has been the challenge to catch the protesters in the act. He stated they do not want families coming out of their homes and confronting the protesters and noted they are to that point.

Mayor Clark asked if Council agrees that staff has clear direction. Councilor Kuiper said the sooner the better.

Mayor Clark called for a recess at 8:50 pm and reconvened at 9:00 pm.

Mayor Clark addressed the next item on the agenda and the City Recorder read the public hearing statement.

9. PUBLIC HEARINGS:

A. Ordinance 2015-009 Amending the Comprehensive Plan and Zoning Map to redesignate an approximately three-acre parcel from neighborhood commercial to medium density residential low

Associate Planner Connie Randall provided a presentation (see record, Exhibit B) and reminded the Council that this public hearing was continued from December 1, 2015 and is the second of two required public hearing prior to the adoption of the ordinance. She highlighted the required findings based on the Planning Commission recommendation. She stated the applicant is requesting a Comprehensive Plan and Zoning Map amendment for a three acre parcel of land located at the southeast corners of Edy and Elwert Road from Neighborhood Commercial (NC) to Medium Density Residential Low (MDRL). She said the Council is being asked what uses are most appropriate on this three acre site. She said the subject site is an active farm and has an existing single family residence and an associated outbuilding and is

part of a larger 21.28 acre parent parcel. She said the site is bisected from north to south in an arching manner by a tributary to Chicken Creek which creates a pocket of developable land adjacent to Elwert Road. She said the site was brought into the Urban Growth Boundary (UGB) in 2002 as part of Area 59 and the Area 59 Concept Plan was adopted by the City Council in 2007 and applied the current land use and zoning designation that we have today.

She said the required findings are outlined in Section 16.80.030 of the Zoning and Community Development Code. She stated the first requirement is there needs to be a demonstrated need for the proposed use and zoning. She referred to comments from December 1, 2015 regarding the finding that there is 46 acres of deficit within the City and what was described as a guaranteed land supply. She said what is meant by that is the amount of land that the City Council could approve for development and because Sherwood is a voter approved annexation City, the City Council does not have the authority to grant development rights to areas that are within the Urban Growth Boundary (UGB) but have not been annexed into the City. She said there are 52 acres designated for MDRL within Brookman and other unincorporated areas plus there is one 15 acre lot inside the City with split zoning. She clarified that the deficit is really between 52 and 67 acres. She said based on that discussion there is a demonstrated need for the proposed use.

She said the proposed amendment is timely. She said with respect to this finding there is an established residential development pattern in the area and there are plans and expectations for public utilities to be expanded to this parcel when development occurs. She stated there has been a change in transportation facilities for that area and noted that Area 59 proposed crossing the tributary for a local road-street connection connecting Elwert and Copper Terrace and that is no longer proposed due to the extensive cost to the City. She said the connection was moved further south. She said absent the planned connectivity between the subject site and the adjacent residential neighborhoods, the site is left isolated and detached from the neighborhoods and the neighborhood commercial development which it was intended to serve. She said this is a timely response to that change. She noted other MDRL zoned properties are unavailable or unsuited for immediate development. She stated the proposed amendment does not significantly affect the functional classification of a local, county, regional or state transportation facility. She said the proposed residential uses is anticipated to generate 1,860 fewer weekday peak hour vehicle trips than would be expected if it were developed NC. She clarified that this is comparing 3 acres of NC to 3 acres of MDRL. She said the proposed amendment would allow for better site planning for residential neighborhoods to take advantage of the adjacent Chicken Creek tributary consistent with the goal of the Comprehensive Plan and the Transportation System Plan as well as Metro and State Standards. She said consequently based on the findings of fact the Planning Commission recommended approval of PA 15-04.

Mayor Clark asked if Council had any questions.

Council President Harris asked if anything has changed since the first hearing. Ms. Randal stated that nothing has changed and there have not been any additional written comments from the public.

Mayor Clark opened the public hearing.

Mimi Doukas with AKS Engineering came forward as a representative for the applicant, Venture Properties. She stated this zone was aspirational from the concept planning effort in Area 59. She said the property is not appropriate for NC as staff pointed out based on the locational factor that it is clear at

the edge of town and the limited access and will not have the ability to serve the small neighborhood surrounding it. She noted the City has an excess supply of NC currently and only one site is need based on the Comprehensive Plan criteria. She said the site as designed is too large based on the NC standards and all the permitted uses under NC are also permitted within the other commercial zones in the City. She said the site is not appropriate for NC and there is a demonstrated need for residential property and development within Sherwood. She said this is an appropriate request and they request approval.

Eugene Stewart, Sherwood property owner said this is the second parcel to be taken out of NC and it seems like one of the desires of the Comprehensive Plan was to provide NC so that citizens would not have to go to the big box store areas. He said it seems like this will add more trips into the core area which is already congested. He asked if there is any thought to developing a NC where there is a use where a person could have their own business located in the same dwelling. He said if you take out that NC the trips will move to another area of the City. He said this needs more research and they need to determine what the real reason was for NC. He commented regarding the possibility of home businesses and a need to be creative. He said Sherwood keeps increasing the residential area but not increasing the commercial and industrial lands and there needs to be a balance so that the property taxes can be reasonable. He asked what the County is planning for the road. He has heard it will be 5 lanes and Roy Rogers will be 5 lanes. He said there are goals for the NC and does this meet them.

Ms. Doukas replied that staff discussed the need for NC and it was not their initial reaction to instantly agree to remove NC. She said staff viewed the application with skepticism as well. She said they understood the importance of NC especially on the north side of Hwy 99. She stated the challenge is this particular piece of property does not make sense for NC because of access and the market area. She noted that the size for NC is intended to be a 1 acre site and this is a 3 acre site. She referred to the comments regarding live work units and said there is a land use process for that which does not require a zone change. She suggested the City further discuss NC and determine the right way to integrate it into the community.

With no further comments Mayor Clark closed the public hearing.

Ms. Randall addressed the live work issue and stated all of the commercial zones allow for residential units. She said the residential zones allow for home based businesses and occupations. She commented on economic development strategies and referred to the previous discussion on Goal 9 which specifically talks about economic development and how it relates to this particular property. She stated when they did the analysis it showed that historically NC is not well utilized in the City and currently there are only 1.03 acres of NC that has been developed. She said this 3 acre parcel would need to be parceled to be developed in accordance with the code as NC is limited to 1 acre. She said the other NC zone in the UGB is located in the Brookman area. She said the City could consider if NC is located appropriately and being utilized. She noted there is intent to update the Comprehensive Plan which was last updated in 1991. She said with respect to this property, it does not meet the intent of the current code.

Mayor Clark asked for Council questions. With no questions from the Council Mayor Clark asked for a motion.

MOTION: FROM COUNCILOR ROBINSON TO READ CAPTION AND ADOPT ORDINANCE 2015-009 AMENDING THE COMPREHENSIVE PLAN AND ZONING MAP TO REDESIGNATE AN

APPROXIMATELY THREE-ACRE PARCEL FROM NEIGHBORHOOD COMMERCIAL TO MEDIUM DENSITY RESIDENTIAL LOW IN ACCORDANCE WITH OUR SECOND READING AND ALL EVIDENCE RECEIVED, SECONDED BY COUNCIL PRESIDENT HARRIS. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next agenda item.

B. Ordinance 2016-001 Repealing Chapter 3.25 Marijuana Tax *First Reading*

City Attorney Josh Soper said this is the first of three marijuana related ordinances before the Council. He stated this ordinance repeals the existing Chapter 3.25 Marijuana Tax that the City enacted prior to the voted of Measure 91. He said the theory was that if you enacted the tax before Measure 91 they may have been grandfathered in after Measure 91 was approved and he noted the opposite occurred and the legislature clarified Measure 91 and explicitly preempted local taxes except if a specific procedure was followed to impose a tax up to 3% on recreational sales. He said this ordinance is simply to repeal the existing ordinance that has been preempted by a state law.

Mayor Clark opened the public hearing. With no comments received Mayor Clark closed the public hearing. Mr. Soper clarified that this was a first reading. The following motion was stated.

MOTION: FROM COUNCIL PRESIDENT HARRIS TO APPROVE ORDINANCE 2016-001 REPEALING CHAPTER 3.25 MARIJUANA TAX AND PLACE IT ON THE NEXT AVAILABLE CITY COUNCIL AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION, SECONDED BY MAYOR CLARK. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

C. Ordinance 2016-002 Declaring a Ban on Medical Marijuana Processing Sites, Medical Marijuana Dispensaries, Recreational Marijuana Producers, Recreational Marijuana Processors, Recreational Marijuana Wholesalers, and Recreational Marijuana Retailers; Referring Ordinance; and Declaring An Emergency

City Attorney Josh Soper said this ordinance is one of two items that were discussed at a Council work session in November and staff was direct to bring an ordinance before the Council for further discussion and possible adoption. He stated this would prohibit the establishment of the listed facilities within the City limits. He said the City has the option to ban all of the categories of facilities or just some of the facilities or none of the facilities. He stated the ordinance was drafted to include all the possible facilities that could be banned. He said the same bill that allows for bans of these facilities also provides the mechanism for imposing a 3% local tax. He noted if you have a ban you cannot also have a tax, even if you just ban one category you cannot tax another category and the City will also lose out on sharing of the State tax revenue under the distribution scheme. He stated Council can place both a ban and a tax on the same ballot and said if both are on the ballot the ballot title has to clearly state that if the ban passes the tax will not go into effect even if the tax passes by a larger percentage. He noted that if the ban ordinance passes now and is referred to the November 2016 ballot it would in the meantime act as a moratorium. He stated tJanuary 4, 2016 was the first day that OLCC started accepting applications for these recreational

marijuana facilities. He said if this ordinance is passed, OLCC will not issue any permits for any of these facilities. He stated that is why this ordinance has an emergency clause and said if Council decides to place a ban on the ballot he recommends passing the ordinance in a single hearing unanimously on an emergency basis so it goes into effect before OLCC issues any permits. He stated medical marijuana dispensaries and medical marijuana processors are grandfathered if they have complied with the steps outlined in the staff report.

Mayor Clark opened the public hearing.

Joe Cansani, Sherwood resident came forward and stated his wife has a medical marijuana grow. He referred to the recreational sales and observed that the state passed two separate laws regarding medical and recreational sales. He said the state passed the medical marijuana legislation because there was a need for people to have medicine. He stated the recreational law was passed in part because of the large black market and in part because there is such a large percentage of the citizenry that wants to recreationally use the product. He said the recreational law can help shut down the black market. He commented on the potential revenue that will be generate and discussed arguments for a ban. He said there is already a thriving cannabis use culture here regardless. He asked if having a ban in the City would have a deterrent effect at all when it is available in neighboring communities. He referred to the nuisances claims and said he has heard they were based on misinformation. He stated his empirical studies of the dispensaries have shown that they are quietly run operations and there is no nuisance to the local community. He stated the effect of shutting down the black market also has the effect of reducing teen use. He said teens across the nation say it is easier to buy cannabis than it is to buy cigarettes.

Toan Ngo, 7706 SW Barnes Road, Portland approached the Council and stated he represents Midori LLC which is a business that is seeking an OLCC processor license in Sherwood. He commented on the positive effects a cannabis related business can have on Sherwood. He said he is currently working with the OHA, OLCC, ODA, and USDA to make sure that everything he makes meets the highest standards. He stated if Sherwood imposes a ban it will not only put all legitimate business owners and their employees out of work and will serve to nourish the black market. He said a ban would do more harm than good because those that would violate the law would not bother to follow any health regulations. He noted that if Sherwood imposes a ban people will leave the City to buy elsewhere and Sherwood would lose the money associated with cannabis and the additional money that those individuals would spend on other entertainment in town. He referred to attitudes changing and leaning more towards legalization and said if Sherwood bans what people already want the City will lose time, money and effort. He invited the Council to visit his facility.

Tony Bevel, Sherwood resident came forward and referred to the emergency clause and asked if it serves the City to ban marijuana when you can buy alcohol and cigarettes in the stores. He said Sherwood has won many awards and asked if there will be awards for banning marijuana. He commented on the youth in our community and said he does not believe these dispensaries would consider selling marijuana to youth. He asked if it makes common sense to ban marijuana and he said he does not think so.

Sheri Ralston, Sherwood resident approached the Council and said she is a cannabis user. She said she decided to open a medical marijuana dispensary and the paperwork is almost finished with the County.

She said she hopes to open in the next three months and supports the 3% tax and the revenue will support the local community and the police department. She said the next step is to pursue a recreational marijuana license so she can serve the rest of the community. She noted the location is not next to residential property and is away from everything else. She commented on the benefits of having medical and recreational sales together so the police can monitor one location. She said there is a rumor that OLCC will eventually do that. She stated currently the Council is considering not allowing recreational retail sales, processing, and producing licenses and the options are regulating, putting it to a public vote or outright banning. She said in reviewing cannabis information the state law was passed in November 2014 to legalize cannabis and to regulate the industry. She stated one of the main reasons that law was passed was so that cannabis could be regulated. She commented on the option and said banning cannabis businesses in Sherwood will stop retail processing and producing businesses and asked if this will stop these things from occurring in Sherwood. She said quite possibly not because there is a portion of Sherwood addresses in unincorporated Washington County and Washington County is allowing grow sites and processing. She said the county already has 10 land capability marijuana farm applications turned in yesterday and there are already 2 large grow sites in unincorporated Washington County with a Sherwood address. She said there is a good chance those grow sites will apply for a recreational license.

Jeff Roberts, Sherwood resident approached the Council in support of the ban and said this sends that wrong message and the community does not want the money from these surfaces. He said the people producing don't live here and as a community he would rather get money from businesses that support the community and families. He said we are the society and we decide what that is. He state is supports a ban along with many people that could not attend tonight. He said he welcomes other community services and businesses that will build and protect families. He stated that once marijuana is here and its influence it is tough to remove.

Andy Jensen, Sherwood resident came forward and said he is in support of banning these activities at least for recreational marijuana. He said this sends the right message about the values of our City and community and it sends the right message to our youth about the dangers of marijuana and other drugs. He said he is undecided about medical marijuana and said it is way too easy to get a medical marijuana card and much of the supposed medical use is recreational. He stated this won't prohibit recreational use of marijuana in Sherwood but will keep the business portion out of Sherwood. He noted they can drive 3 miles up the road to buy product. He said not having recreational sales in town would be a positive influence. He referred to the argument to live with the sales and benefit from the state tax revenues from recreational marijuana as well as imposing a local tax. He stated this is wasting an opportunity to stand for what is best for our youth and community than trading it for some unclear and undetermined minor financial benefit while endorsing use of a proven detrimental and dangerous drug and a proven gateway to other drugs and crime. He urged the Council to put a resolution on the November 2016 ballot to ban these activities and impose a moratorium until that time. He provided the names of Sherwood residents who have expressed to him their support of this and were unable to be at the meeting. He read the following names: Roger and Heidi Cluff, Adam and Sarah Cluff, Casey Lesh, John Bousher, Kelly Bowers, Brent and Christian Chickoski, Ryan Wright, Brian and Amy Boyton, Shane Maylan, Jeff Roberts, Steven T. Ramos, Thad and Wendy Miller, Bill and Traci Butterfield, Chris and Lenea Bishop, Scott and Tracy Edington, Cory and Sue World, Daniel and Jennifer Messimer, Jim and Melony Schaffer, Luke and Stephanie Curtis and others.

Record Note: Spelling of names were not provided.

Angie Allred, Sherwood resident approached the Council and provided a history of prohibition and the similarities between the prohibition of alcohol and marijuana. She said there are misconceptions. She said during the prohibition people were allowed to brew their own for home use. She stated the law was passed but did not go into effect for a year so people could stock pile alcohol. She noted it was not impossible to get alcohol just more difficult. She said alcohol consumption did decline dramatically during prohibition and went down 30-50%. She stated cirrhosis death rates for men were 29.5 per 100,000 in 1911 before prohibition and in 1929 the death rates were 10.7 per 100,000. She said the admission to state mental hospitals for alcoholic psychosis went from 10.1 per 100,000 in 1919 to 4.7 per 100,000 in 1928. She said arrests for public drunkenness declined 50% between 1916 and 1922. She stated violent crime did not rise during prohibition and organized crime was not the result of prohibition as it existed before and after. She said after prohibition was repealed alcohol consumption increased although it is still lower than pre-prohibition. She noted that making things harder to get does make a difference. She commented on statistics and said a year and a half in Colorado is not enough time to determine that the youth numbers have not changed. She said money is not everything and should not play into the conversation when determining what is right for our community and our kids. She said this is a safe community that people come to raise their kids.

With no further comments, Mayor Clark closed the public hearing.

Councilor Robinson thanked the seven citizens for their testimony on this subject. She said her emphasis, whether it be medical marijuana or recreational marijuana, has been on Measure 91 and whether it was approved by voters in Sherwood. She said the statistics at that time showed that none of the three districts in Sherwood passed Measure 91. She stated her position has always been that so far as we know as a Council that represents the community that the answer for those who voted is the majority of us in the community did not want medical or recreational marijuana here. She said that has been her concern when discussing whether to allow and it remains her position that it is important to get more than just seven opinions about whether to ban or tax medical or recreational marijuana. She supports putting the issue on the ballot in order to get the input from the public and hopefully there will be a record turnout. She said it does not preclude us from allowing recreational and medical marijuana retail, grow sites, processing, etc. in the future. She said the resolution will ban it currently and put the issue on the ballot in November and that is her preference. She noted that this will allow us to listen to the voters and also allow others to struggle with the complexities that will naturally occur and the inherent problems that are present in states like Colorado and Washington. She stated that an emergency is needed to institute a ban so that we don't have some businesses come and get grandfathered in when the ban takes place. She said it is cleaner to ban it and make a moratorium until November and deal with the will of the people in November.

Councilor King stated that he needed to leave the meeting for work.

Mr. Soper clarified that if Council adopts as an emergency it has to be a unanimous vote.

Mayor Clark asked if Council would consider entertaining an emergency vote or deliberate.

Councilor Henderson said she has questions.

Mayor Clark said if they deliberate and Councilor King needs to leave they will not be able to declare an emergency. Council agreed to try to deliberate before he needed to leave.

Councilor Henderson commented that medicinal marijuana has been in Oregon for a very long time so Measure 91 did not say that voters in Sherwood did not want medicinal marijuana and she sees this as two different issues and recommended putting them separately on the ballot to give voters the choice. She said it is confusing and referred to how they separated the Charter Amendments on the ballot. She said with the State allowing recreational sales at medicinal dispensaries if this ban is passed does it affect Ms. Ralston's proposed medical marijuana dispensary.

Mr. Soper said the requirements for medical marijuana dispensaries to be grandfathered are that they have applied to be registered or have registered with OHA and successfully completed their land use application process if applicable.

Ms. Hajduk said she assumes the first is in process and said that she has completed the land use process.

Mr. Soper asked Ms. Ralston if she had applied for her OHA registration and it was determined that she would be grandfathered. Mr. Soper reminded the Council that if this ordinance is adopted the only thing that would be grandfathered is her medical marijuana dispensary. Mr. Soper said there are currently not any medical marijuana processors operating in Sherwood.

Planning Manager Brad Kilby stated there is a medical marijuana processor in Sherwood on Galbreath in the general industrial zone. He said they came in yesterday and had their land use compatibility statement with the intent of applying to the State for a recreational grow.

Councilor Henderson asked if the grows can be next to each other.

Mr. Soper said we are discussing a processor and not a grower and asked Mr. Kilby if that processor completed any applicable local land use applications.

Mr. Kilby said we don't have anything set up.

Councilor Henderson asked when does the Governor's executive order that allows recreational sales at medical marijuana dispensaries end. Mr. Soper said that was a legislative action and it ends December 31, 2016.

Councilor Henderson referred to the processor that Mr. Kilby mentioned and asked if they would be grandfathered. Mr. Soper said assuming they have an OHA permit.

Mr. Kilby said he assumes they have an OHA permit as they are in operation now.

Council President Harris stated that she would not support a ban on any of them and the vote will probably not be unanimous.

Councilor Henderson suggested letting Councilor King know that he can leave and there is no point in trying to do an emergency clause if you are going to vote nay and that negates the unanimous.

Council President Harris commented on the benefits of medical marijuana and said it is not easy to get a medical marijuana card and it is not inexpensive. She said it is much easier to get cannabis from the black market than from a licensed dispensary. She said the dispensaries are vigilant and cautious about whom they sell to compared to the Sherwood liquor store. She stated it is easy to get alcohol and tobacco in Sherwood and those are licensed stores. She commented on dispensaries in the first seven to ten years people will be frightened of breaking the law. She said the dispensary owners have enough customers and do not need to sell to minors. She commented on the amount of money it takes to open a dispensary and it is not easy and for the most part the people that are opening them are not typically associated with drug use and crime. She said they are people that have been using cannabis medically for years and have benefitted and want it to be available to people who need it. She commented on the dispensary in King City and the improvements that have been made to the building. She said marijuana has proven to not be a gateway drug. She stated the two primary gateways are low income and the wrong circle of friends. She said when meth and cocaine addicts were questioned, the number one drug they did before was tobacco and then alcohol. She said people doing cannabis will not be doing meth. She stated causation is not the same as correlation and maybe cannabis could have a correlation with other drugs such as tobacco which kills more people than cannabis. She commented on the information out there on both sides. She said cannabis has been used throughout the world and is life changing. She stated to ban it is cruel to those that need it. She said she will not support any bans and will support the 3% tax.

Mayor Clark agreed with Councilor Henderson that there is too much lumped together in this ordinance and would like staff to bring back two ordinances with one banning medical marijuana and one banning recreational marijuana. She said she would vote against this as written.

Mr. Soper said he can prepare something for the next meeting.

Mayor Clark asked if the Council needs to approve the first reading to move to the second reading or do they direct staff to bring back an additional first reading of two new ordinances.

Mr. Soper recommended that if the majority of the Council wants to move forward in looking at banning they should approve as written and he will bring amendments to the next meeting.

Councilor Robinson recommended approving the ordinance stated and deleting all of the language having to do with an immediate ban and merely referring it to the voters.

Mayor Clark said now we have two ordinances and we need to remove the emergency clause.

Mr. Soper said if the ordinance is not passed unanimously tonight then at the next hearing the emergency language will not pertain.

Councilor King said we need to approve something tonight so Council can proceed to the second reading.

Mayor Clark asked if it fails it will not return to Council.

Mr. Soper said if the ordinance is not passed tonight the Council will start over with a first reading at the next Council meeting and then a second reading two weeks later so a month long process.

Councilor Robinson said that if Council identifies what to revise in the version before them tonight that it be approved subject to clarification that it will be split into two ordinances and removing the emergency clause thereby allowing Council have a second reading at the next meeting.

Mr. Soper said he can't state conclusively that Council can do two separate ordinances at this point so if that is the condition of approval it may be difficult.

Councilor Harris asked if the categories are all together because if you ban one you don't receive any of the revenue.

Mr. Soper said HB 3400 as he recalls said the City may pass an ordinance prohibiting these activities and he said it may have been envisioned that there would be one ordinance banning whichever activities the City decided to prohibit. He said it was not envisioned to have two separate ordinances.

Councilor Kuiper said if you can ban a number of the activities why couldn't you have two separate ordinances.

Mr. Soper said that is more likely than not but is hesitate to have the Council approve the ordinance with that as a stipulation if it turns out that it is not the case and we have to start over with a first reading.

Mr. Gall clarified that Council is directing staff to split the ordinance to ban medical uses versus recreational uses.

Mayor Clark said that is what she is hearing from Council.

Councilor Henderson agreed and said she is not 100% in favor of banning medicinal but is 100% in favor of banning recreational and in favor of putting both on the ballot and letting the voters decide. She said these are not the same issue.

Councilor Kuiper said if Council does split the ordinance and any of the bans pass it negates the need for a 3% tax on the ballot.

Mr. Soper said there is no tax on medical marijuana and it is only on recreational marijuana.

Mr. Soper reminded the Council that they will be voting in favor of the motion and not to approve the ordinance and place it on the ballot. He said it occurs to him if there are now going to be two ordinances the second ordinance will have to have a first hearing so he recommended the Council amend the ordinance to strike all the language pertaining to medical dispensaries and the emergency clause and move it forward with just the recreational facilities then that ordinance can have a second hearing on January 19 and there can be a first hearing on an ordinance pertaining to banning medical marijuana.

MOTION: FROM MAYOR CLARK TO AMEND ORDINANCE 2016-002 TO STRIKE THE STATEMENT ON MEDICAL MARIJUANA PROCESSING SITES, MEDICAL MARIJUANA DISPENSARIES AND DECLARING AND EMERGENCY, SECONDED BY COUNCILOR HENDERSON.

Councilor Henderson asked if that motion is satisfactory to move the legislation forward.

MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

MOTION: FROM MAYOR CLARK TO APPROVE ORDINANCE 2016-002 DECLARING A BAN ON RECREATIONAL MARIJUANA PRODUCERS, RECREATIONAL MARIJUANA PROCESSORS, RECREATIONAL MARIJUANA WHOLESALERS, AND RECREATIONAL MARIJUANA RETAILERS REFERRING ORDINANCE AND PLACING IT ON THE NEXT AVAILABLE CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION, SECONDED BY COUNCILOR ROBINSON. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Councilor Harris clarified that this will go to a second reading and there will be a first reading on the new ordinance. Mr. Soper said yes, assuming we can do that.

Mayor Clark addressed the next agenda item.

D. Ordinance 2016-003 Imposing a Three Percent Tax on the sale of Marijuana items by a Marijuana Retailer and Referring Ordinance

MOTION: FROM MAYOR CLARK TO APPROVE ORDINANCE 2016-003 IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE AND PLACE IT ON THE NEXT AVAILABLE CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION.

The City Recorder asked if the Council was planning on holding a public hearing on the ordinance.

Mr. Soper said the Council needs to open the public hearing.

Mayor Clark withdrew her motion and opened the public hearing. With no public comments received, Mayor Clark closed the public hearing and stated the following motion.

MOTION: FROM MAYOR CLARK TO APPROVE ORDINANCE 2016-003 IMPOSING A THREE PERCENT TAX ON THE SALE OF MARIJUANA ITEMS BY A MARIJUANA RETAILER AND REFERRING ORDINANCE AND PLACE IT ON THE NEXT AVAILABLE CITY COUNCIL MEETING AGENDA FOR ADDITIONAL PUBLIC COMMENT AND CONSIDERATION, SECONDED BY COUNCILOR KUIPER. MOTION PASSED 7:0, ALL MEMBERS VOTED IN FAVOR.

Mayor Clark addressed the next item on the agenda.

9. CITY MANAGER REPORT:

Mr. Gall said due to the time he had nothing to report.

Mayor Clark addressed the next item on the agenda.

10. COUNCIL ANNOUNCEMENTS:

Mayor Clark stated that due to the lateness of the meeting she requested Council hold their comments to the next meeting.

11. ADJOURN:

Mayor Clark adjourned the meeting at 10:20 pm.

Attest:

Sylvia Murphy, MMC, City Recorder

Krisanna Clark, Mayor